



# **PLANNING COMMISSION AGENDA REPORT**

MEETING DATE: MARCH 14, 2005

*U111.3*  
ITEM NUMBER:

SUBJECT: PLANNING APPLICATION PA-04-45  
161 MERRILL PLACE

DATE: MARCH 4, 2005

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER  
(714). 754-5611

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## **DESCRIPTION**


The applicant is requesting approval of variances from open space requirements (40% required; 32% proposed) and driveway landscaped parkway width requirements (10 feet required; 2 feet existing), with a minor modification to allow reduced driveway width (16 feet required; 10 feet existing) in conjunction with a minor design review to construct a two-story, 1,469 square foot apartment unit behind an existing one-story residence.

## **APPLICANT**

The applicant is Joseph Raffone, representing the owner of the property, Kevin Javid.

## **RECOMMENDATION**

Deny by adoption of Planning Commission resolution.

  
\_\_\_\_\_  
MEL LEE, AICP  
Associate Planner

  
\_\_\_\_\_  
R. MICHAEL ROBINSON, AICP  
Asst. Development Services Director

## PLANNING APPLICATION SUMMARY

Location: 161 Merrill Place Application: PA-04-45

Request: Variances from open space requirements (40% required; 32% proposed) and driveway landscaped parkway width requirements (10 feet required; 2 feet existing) with a minor modification to allow reduced driveway width (16 feet required; 10 feet existing) in conjunction with a minor design review to construct a two-story, 1,469 square foot apartment unit behind an existing one-story residence

### SUBJECT PROPERTY:

Zone: R2-MD  
 General Plan: Medium Density Residential  
 Lot Dimensions: 43 FT x 140 FT  
 Lot Area: 6,020 SF  
 Existing Development: 1- story residence.

### SURROUNDING PROPERTY:

North: All surrounding properties are zoned  
 South: residential and contain residences.  
 East:   
 West:

### DEVELOPMENT STANDARD COMPARISON

Development Standard	Required/Allowed	Proposed/Provided
<b>Lot Size (Development Lot):</b>		
Lot Width	100 FT	43 FT (1)
Lot Area	12,000 SF	6,020 SF (1)
<b>Density:</b>		
Zone	1 Unit/3,630 SF	1 Unit/3,010 SF (2)
General Plan	1 Unit/3,630 SF	1 Unit/3,010 SF (2)
<b>Building Coverage:</b>		
Buildings	NA	2,060 SF (34%)
Paving	NA	2,016 SF (34%)
Open Space	40% (2,408 SF)	1,944 SF (32%) (3)
TOTAL		6,020 SF (100%)
Rear Yard Coverage (Main Building)	215 SF (25%)	113 SF (13%)
Rear Yard Coverage (Accessory Building)	430 SF (50%)	427 SF (50%)
Landscape Parkways	10 FT combined/3 FT min. one side	2 FT (3)
Separation Between Buildings	10 FT (Main Buildings) 6 FT (Main and Accessory Buildings)	10 FT 6 FT
Building Height:	2 Stories/27 FT	2 Stories/21 FT
Percentage of 2 <sup>nd</sup> Floor Area (4)	80% (2 <sup>nd</sup> Floor to 1 <sup>st</sup> Floor)	118%
<b>Setbacks</b>		
Front (Existing Residence)	20 FT	24 FT, 6 IN
Side (Left/Right - Main Building and Accessory Building)	5 FT (1 Story Main Building) 10 FT Avg. (2 Story Main Building) (4) 0 FT (Accessory Building)	5 FT/19 FT, 4 IN 5 FT/19 FT, 4 IN 22 FT, 4 IN/0 FT
Rear	20 FT (2 Story Main Building) 0 FT (Accessory Building)	20 FT 0 FT
<b>Parking</b>		
Covered	2	3
Open	4	3
TOTAL	6 Spaces	6 Spaces
Driveway Width	16 FT	10 FT (5)

- (1) The property is legal nonconforming.  
 (2) Code allows 2 units on lots between 6,000 SF and 7,260 SF as of March 16, 1992 (see staff report discussion).  
 (3) Does not comply with code. A variance has been requested from this requirement.  
 (4) Residential Design Guideline  
 (5) Allowed if approved by minor modification

NA=Not applicable or no code requirement  
 CEQA Status Exempt, Class 3  
 Final Action Planning Commission

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## **BACKGROUND**

The site contains an existing one-story residence with an attached carport and detached storage shed. Across the street from the subject property is the future site of a 5-unit, 2-story, small lot common interest development approved under PA-03-33 and Tentative Tract Map T-16560 (168 through 178 Merrill Place), which was recently granted a one-year extension of time by the Planning Commission.

## **ANALYSIS**

The applicant proposes to construct a 2-story apartment at the rear of the property. The proposed unit is 674 square feet on the first floor and 795 feet on the second floor. The first floor will have a living room, dining room, kitchen and powder room; the second floor will have two bedrooms and two bathrooms.

The applicant is also proposing to construct a new detached two-car garage at the rear of the property. In addition, 4 open parking spaces are proposed; two in front of the proposed garage, and two between the existing residence and the proposed unit. A portion of the proposed second story unit will cantilever over one of the new parking spaces.

### **Variances**

Code Section 13-32 requires residential properties to provide open space equal to a minimum of 40% of the total lot area. Areas that cannot be counted as open space include buildings, driveways, and open parking spaces. Because the proposed project provides open space that is less than the minimum required by Code (32%), the applicant has requested a variance from this requirement.

Code Section 13-32 also requires R2-MD zoned properties to provide landscape parkways with a combined width of 10 ft., but not less than 3 ft. on one side, along common driveways. A variance is required because the existing driveway provides a 2-foot total landscape parkway width.

Code Section 13-29(g)(1) allows granting a variance where special circumstances applicable to the property exist (such as an unusual lot size, lot shape, topography, or similar features) and where strict application of the zoning ordinance would deprive the property owner of privileges enjoyed by owners of other properties in the vicinity under an identical zoning classification. Other factors (such as existing site improvements) may also be considered.

### **OPEN SPACE**

The existing property is nonconforming with regard to lot size (12,000 square feet is required for newly created R2-MD lots; 6,020 square feet is existing for the subject property). However, Code Section 13-32 (Residential Development Standards – R2-MD zone) allows one unit per 3,000 square feet of lot area for legal lots existing as of March 16, 1992 that are less than 7,260 square feet but not less than 6,000 square feet. The

purpose of this provision is to allow the construction of a minimum of two units on an R2-MD property that falls within the specified range of lot sizes, provided the other residential development standards can be complied with.

In this case, it is staff's opinion that there is no basis for approval of the requested variance because the open space cannot be accommodated due to the design of the project proposed by the applicant, rather than to the size of the lot, because the two proposed detached structures maximize the building and paving coverage for the site. There are no special circumstances applicable to the property such as an unusual lot size, topography, or similar features with regard to the requested variance for open space.

### *DRIVEWAY LANDSCAPING*

With regard to the variance from the driveway parkway landscaping requirement, The existing property is nonconforming with regard to lot width (100 feet required; 43 feet existing) and is 3 to 6 feet narrower than similar lots along Merrill Place, which range in width from 46 feet to 49 feet, because the lot is only 43 feet wide and the existing residence is set back 12 feet from the right (west) side property line (where the existing driveway is located), the required 10 feet of driveway parkway landscaping cannot be provided without demolishing a portion of the existing residence. The original intent of the driveway parkway landscaping requirement was to provide visual relief for driveways serving multiple-family or common interest developments, where driveways are often on much deeper, 300-foot lots. The shorter depth of this lot (140 feet), and the resultant shorter length of the driveway (120 feet), reduces the visual impact the driveway will have.

Also, because the driveway exists, the view of the driveway from the street will not change as a result of the construction of the new unit. Finally, as indicated earlier, there is an existing 2-foot wide landscape planter on the far side of the driveway (opposite the existing residence) that will be retained, providing some visual relief. A minor modification to allow a decrease in driveway width from 16 ft. to a minimum of 10 ft. for two or more dwelling units is discussed later in this report.

It should also be noted that, as discussed earlier, since the variance from open space cannot be supported, staff cannot support the variance from driveway parkway landscaping requirements.

### Minor Design Review

A minor design review is required because the floor area of the proposed second story exceeds 50% of the first floor (118% is proposed). Normally, the minor design review would be reviewed by the Zoning Administrator; however, to expedite processing, the request is being combined with the variances so that all the requests may be considered concurrently by the Planning Commission.

Although the second floor exceeds the 80% second floor to first floor ratio recommended in the City's Residential Design Guidelines, it is staff's opinion that the proposal meets the intent of the design guidelines. Specifically, the proposed two-story residence incorporates multiple building planes and breaks in the roof to create visual interest and

adequate transitions from the first to second floor. Because the residence is at the rear of the property, the structure will have minimal visual impact from the street. The second floor is less than the recommended average 10-foot setback on the left (east) side (5 feet is proposed). Because there are several other two-story structures within the same tract with 5 foot second floor setbacks, the proposed addition is consistent with the intent of the Residential Design Guidelines.

Once again, it should be noted that since the variance from open space cannot be supported, staff is unable to support the minor design review for the proposed apartment.

### Minor Modification

In addition to the variance in driveway landscape parkway width, a minor modification is also required for the width of the driveway itself because it will serve more than one dwelling unit (16 foot width required; 10 foot width existing).

If the project were to be approved, it is staff's opinion that there is basis to support the minor modification to allow the reduction in the driveway width for the reasons stated in the variance for parkway landscape width, i.e., the required 16 feet of driveway width cannot be provided without demolishing a portion of the existing residence. If the other entitlements were to be approved, the existing 10-foot driveway width would be adequate to accommodate the maneuvering of vehicles on-site.

### ALTERNATIVES

If the variance from open space was denied it would prevent the other entitlements from being approved, and the project could not be constructed as proposed. The applicant could not submit substantially the same type of design for six months; however, the existing residence would be permitted to remain. If the Commission were to approve the project, appropriate findings would need to be made.

### CONCLUSION

Because staff cannot make the appropriate findings for the variance from open space, staff recommends denial of the project.

Attachments:      1.      Draft Planning Commission Resolution  
                          2.      Exhibit "A" - Draft Findings  
                          3.      Exhibit "B" - Draft Conditions of Approval  
                          4.      Applicant's Project Description and Justification  
                          6.      Location Map  
                          7.      Plans/Photos

cc:      Deputy City Mgr.-Dev. Svcs. Director  
             Senior Deputy City Attorney  
             City Engineer  
             Fire Protection Analyst  
             Staff (4)  
             File (2)

Joseph Raffone  
161 Merrill Place  
Costa Mesa, CA 92627

File Name: 031405PA0445	Date: 030305	Time: 130p.m.
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**RESOLUTION NO. PC-05-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF COSTA MESA DENYING PLANNING APPLICATION  
PA-05-45**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY  
RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Joseph Raffone, representing the owner of the property, Kevin Javid, with respect to the real property located at 161 Merrill Place, requesting approval of variances from driveway landscaped parkway width requirements (10 feet required; 2 feet existing) and open space requirements (40% required; 32% proposed) with a minor modification to allow reduced driveway width (16 feet required; 10 feet existing) in conjunction with a minor design review to construct a two story, 1,469 square foot apartment unit behind an existing one-story residence; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on March 14, 2005.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the Planning Commission hereby **DENIES** PA-04-45 with respect to the property described above.

**PASSED AND ADOPTED this 14<sup>th</sup> day of March, 2005.**

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Chair, Costa Mesa  
Planning Commission

STATE OF CALIFORNIA   )  
  )ss  
COUNTY OF ORANGE    )

I, R. Michael Robinson, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on March 14, 2005, by the following votes:

AYES:       COMMISSIONERS

NOES:       COMMISSIONERS

ABSENT:     COMMISSIONERS

ABSTAIN:    COMMISSIONERS

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Secretary, Costa Mesa  
Planning Commission



**EXHIBIT "A"****FINDINGS**

- A. The information presented does not comply with section 13-29(g)(1) of the Costa Mesa Municipal Code in that special circumstances applicable to the property do not exist to justify granting of the variance from open space requirements. Strict application of the zoning ordinance would not deprive the property owner of privileges enjoyed by owners of other property in the vicinity under identical zoning classification. Specifically, the applicant is required to provide a minimum of 40% open space for the proposed apartment and the existing residence, which cannot be accommodated due to the design of the residence proposed by the applicant, which maximizes the building and paving coverage for the site. These issues are not related to the site itself, but to the type of project proposed by the applicant. There are no special circumstances applicable to the property such as an unusual lot size, lot shape, topography, or similar features with regard to the requested variance for open space.
- B. The information presented substantially complies with section 13-29(g)(1) of the Costa Mesa Municipal Code in that special circumstances applicable to the property exist to justify granting of the variance from driveway parkway landscaping requirements. Strict application of the zoning ordinance would deprive the property owner of privileges enjoyed by owners of other property in the vicinity under identical zoning classification. Specifically, the nonconforming lot width and size, coupled with the existing residence, precludes providing both the required minimum open space and driveway parkway landscaping. The original intent of the driveway parkway landscaping was to provide visual relief for driveways serving multiple-family and common-interest developments where driveways are often longer. The shorter depth of this lot will not create a negative visual impact. Also, because the driveway is existing, the view of the driveway from the street will not change as a result of the construction of the new unit. However, approval of this variance is unnecessary unless adequate open space is provided.
- C. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(14) with regard to the minor design review in that the project complies with the City of Costa Mesa Zoning Code and meets the purpose and intent of the Residential Design Guidelines, which are intended to promote design excellence in new residential construction, with consideration being given to compatibility with the established residential community. This minor design review includes site planning, preservation of overall open space, landscaping, appearance, mass and scale of structures, location of windows, varied roof forms and roof plane breaks, and any other applicable design features. Specifically, architectural articulation and visual relief is provided through a variety of roof and wall planes. The proposed 5-foot second story setback is consistent with the prevailing character of the tract. However, approval of this minor design review is unnecessary unless adequate open space is provided.

- D. The information presented does comply with Costa Mesa Municipal Code Section 13-29(g)(6) with regard to the minor modification because the reduction in driveway width will not be materially detrimental to the health, safety, and general welfare of persons residing within the immediate vicinity of the project or to property and improvements within the neighborhood. The improvement enhances the design of the existing and anticipated development in the vicinity. The existing driveway width will be adequate to accommodate the maneuvering of vehicles on-site. However, approval of this minor modification is unnecessary unless adequate open space is provided.
- E. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
  - a. The proposed development is not compatible or harmonious with uses within the general neighborhood with regard to the City's Residential Design Guidelines. Specifically, the project cannot be approved because adequate open space is not provided for the project as discussed in Finding A2.
  - b. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
- F. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
- G. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

**EXHIBIT "B"****CONDITIONS OF APPROVAL (If Project Is Approved)**

- Plng. 1. Address assignment shall be requested from the Planning Division prior to submittal of working drawings for plan check. The approved address of individual units, suites, buildings, etc, shall be blueprinted on the site plan and on all floor plans in the working drawings.
2. Prior to issuance of building permits, applicant shall contact the U.S. Postal Service with regard to location and design of mail delivery facilities. Such facilities shall be shown on the site plan, landscape plan, and/or floor plan.
3. Street addresses shall be displayed on the front of each unit. Street address numerals shall be a minimum 6 inches in height with not less than ½-inch stroke and shall contrast sharply with the background.
4. The subject property's ultimate finished grade level may not be filled/raised unless necessary to provide proper drainage, and in no case shall it be raised in excess of 30 inches above the finished grade of any abutting property.  
If additional fill dirt is needed to provide acceptable on-site stormwater flow, an alternative means of accommodating that drainage shall be approved by the City's Building Official prior to issuance of any grading or building permits. Such alternatives may include subsurface tie-in to public stormwater facilities, subsurface drainage collection systems and/or sumps with mechanical pump discharge in-lieu of gravity flow. If mechanical pump method is determined appropriate, said mechanical pump(s) shall continuously be maintained in working order. In any case, development of subject property shall preserve or improve the existing pattern of drainage on abutting properties.
5. To avoid an alley-like appearance, the driveway shall be developed without a center concrete swale. Design shall be approved by the Planning Division.
6. The applicant shall contact Comcast (cable television) at 200 Paularino, Costa Mesa, (888.255.5789) prior to issuance of building permits to arrange for pre-wiring for future cable communication service.
7. The conditions of approval, ordinance and code provisions of PA-04-45 shall be blueprinted on the face of the site plan.
8. The applicant shall contact the Planning Division to arrange Planning inspection of the site prior to the release of occupancy/utilities. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
9. Demolition permits for existing structures shall be obtained and all work and inspections completed prior to final building inspections. Applicant is notified that written notice to the Air Quality Management District may be required ten (10) days prior to demolition.
10. The existing storage shed shall be removed as part of this project.
11. Existing mature vegetation shall be retained wherever possible. Should it be necessary to remove existing vegetation, the applicant shall submit

it be necessary to remove existing vegetation, the applicant shall submit a written request and justification to the Planning Division. A report from a California licensed arborist may be required as part of the justification. Replacement trees shall be of a size consistent with trees to be removed, and shall be replaced on a 1-to-1 basis. This condition shall be completed under the direction of the Planning Division.

12. Construction, grading, materials delivery, equipment operation or other noise-generating activity shall be limited to between the hours of 7 a.m. and 8 p.m., Monday through Friday, and between the hours of 8 a.m. and 6 p.m. on Saturday. Construction is prohibited on Sundays and Federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting and other quiet interior work.
- Trans. 13. Vehicle maneuvering area behind all open parking spaces shall remain clear and unobstructed; i.e., no support posts are permitted in driveway area.
- Eng. 14. Maintain the public right-of-way in a "wet-down" condition to prevent excessive dust and promptly remove any spillage from the public right-of-way by sweeping or sprinkling.

**PLANNING DIVISION - CITY OF COSTA MESA**  
**DESCRIPTION/JUSTIFICATION**

Application #: **PA-04-45**

Environmental Determination: **EXEMPT**

Address: 161 Merrill Pl Costa Mesa 92627

**1. Fully describe your request:**

SEE ATTACHED

**2. Justification**

**A.** For a Conditional Use Permit or Minor Conditional Use Permit: Describe how the proposed use is substantially compatible with uses permitted in the same general area and how the proposed use would not be materially detrimental to other properties in the same area.

**B.**

For a Variance or Administrative Adjustment: Describe the property's special circumstances, including size, shape, topography, location or surroundings that deprive the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification due to strict application of the Zoning Code.

**3. This project is: (check where appropriate)**

☐ In a flood zone.

☐ In the Redevelopment Area.

☐ Subject to future street widening.

☐ In a Specific Plan Area.

**4. I have reviewed the HAZARDOUS WASTE AND SUBSTANCES SITES LIST published by the office of Planning and Research and reproduced on the rear of this page and have determined that the project:**

☐ Is not included in the publication indicated above.

☐ Is included in the publication indicated above.

  
Signature

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12/3/04  
Date

Fully describe your request:

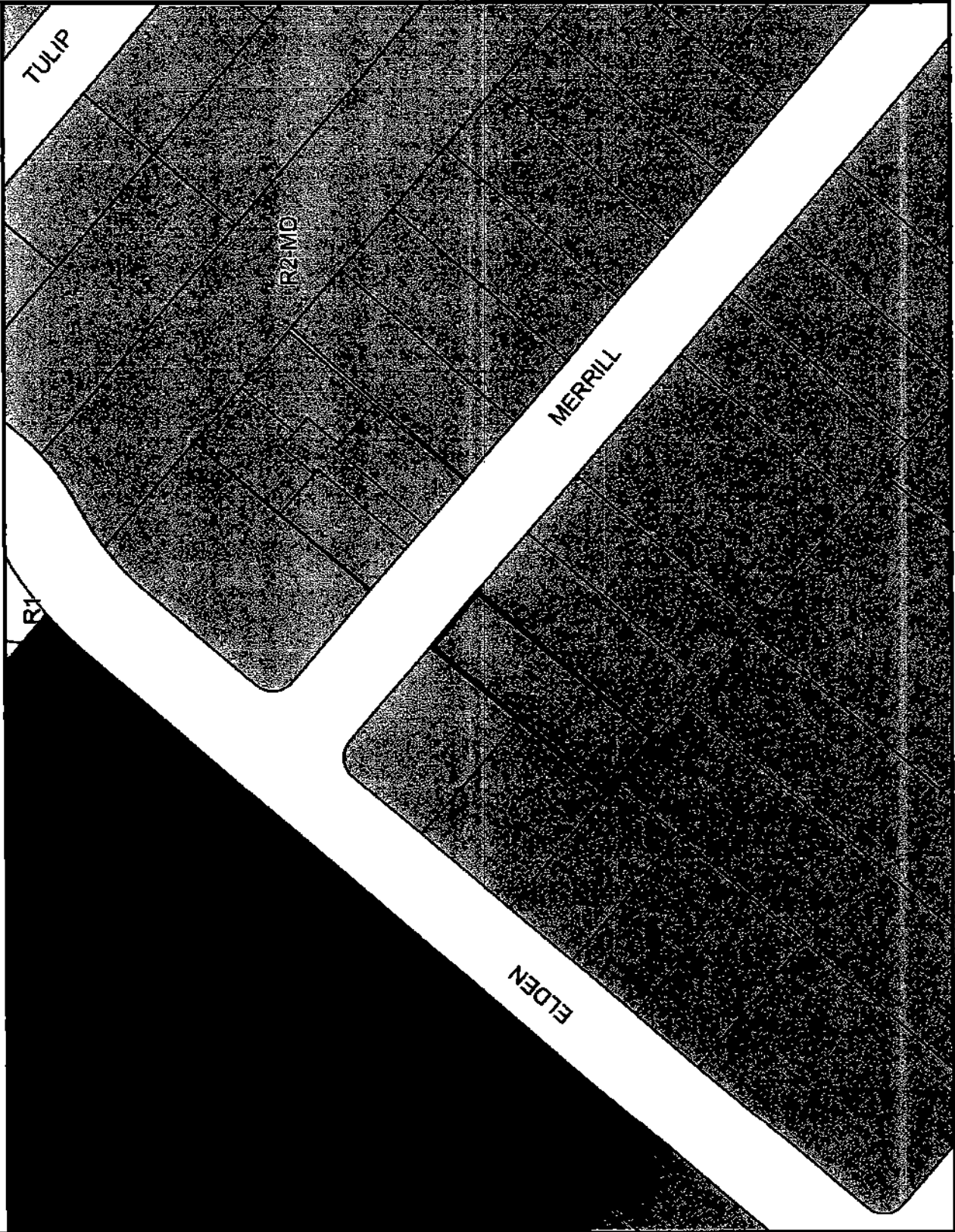
We wish to build a 1500 sqft, 2<sup>nd</sup> unit in the back of the property. We plan on occupying the 2<sup>nd</sup> unit and renting out the front unit as it is only 897sqft. We also are going to demolish a small portion in the rear of the front unit, and add a similar amount of square footage in the front of the same unit. In the process the front of the house will receive a new façade, improving the overall appearance of the property. Additionally, the 2<sup>nd</sup> unit will increase the overall tax base of the property.

#### Justification B.

The lot is smaller than similar lots in the immediate area. It is 43X140, and is a relatively long narrow lot. The front house is 897 sqft. We wish to add on a 1500 sqft unit in the rear of the property. Regarding the 2<sup>nd</sup> unit, the bottom floor (footprint) is 700 sqft, and the top floor is 800 sqft. A garage is also planned and will be 405 sqft. In overall respects, there will 6020 sqft of lot space covered by 2002 sqft of buildings. The change in open space visible from the curb will be negligible, however the need for a driveway extending to the rear of the property reduce the overall "green" open space to roughly 35% of the total lot.

# ZONING/LOCATION MAP

PA-04-45



## Legend

Street Names

Parcel Lines

Zoning

AP

C1

C1-S

C2

CL

IMR

IMR-S

MG

MP

P

PDC

PDI

PDR-MD

PDR-LD

PDR-MD

PDR-NCH

R1

R2-MD

R2-MD

R3

TC

Dwelling

General

General Plan

Specific Land

Parcels



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# 161 MERRILL PLACE

## Legend

- Street Names
- Parcel Lines
- Dwelling
- General
- General Plan
- Specific Land
- Ortho
- Photography
- Parcels





RESIDENTIAL DEVELOPMENT STANDARDS FOR 161 MERRIL PLACE, COSTA MESA CA

SITE DATA:

SITE AREA .....6,023 S.F.  
OPEN AREA.....1,945 S.F.  
PAVED AREA.....2,016 S.F.  
BUILDING AREA.....2,062 S.F.  
RATIO OPEN SPACE TO BLDG .....30% (40% MIN. REQ'D.)

ON SITE PARKING SPACES - REQUIRED & PROVIDED:

1 COVERED SPACE PER UNIT .....2 REQ'D. - 2 PROVIDED  
1.5 NONCOVERED SPACE PER UNIT .....3 REQ'D - 3 PROVIDED  
5 NONCOVERED GUEST SPACE PER UNIT .....1 REQ'D. - 1 PROVIDED

EXIST. UNIT DATA:

EXIST. UNIT AREA.....1,079 S.F.  
AREA DEMOLISHED.....258 S.F. (-)  
EXIST. UNIT ADDITION.....140 S.F. (+)  
REMODELED EXIST. UNIT AREA.....961 S.F.

NEW UNIT DATA:

1ST. FL. AREA.....674 S.F.  
2ND FLOOR AREA.....795 S.F.  
TOTAL NEW UNIT AREA.....1,469 S.F.  
RATIO OF 2ND TO 1ST FLOOR AREA.....118% (80% SUGESTED MAX.)

NEW ANCILLARY BLDG. (GARAGE)

ANCILLARY GARAGE.....427 S.F.

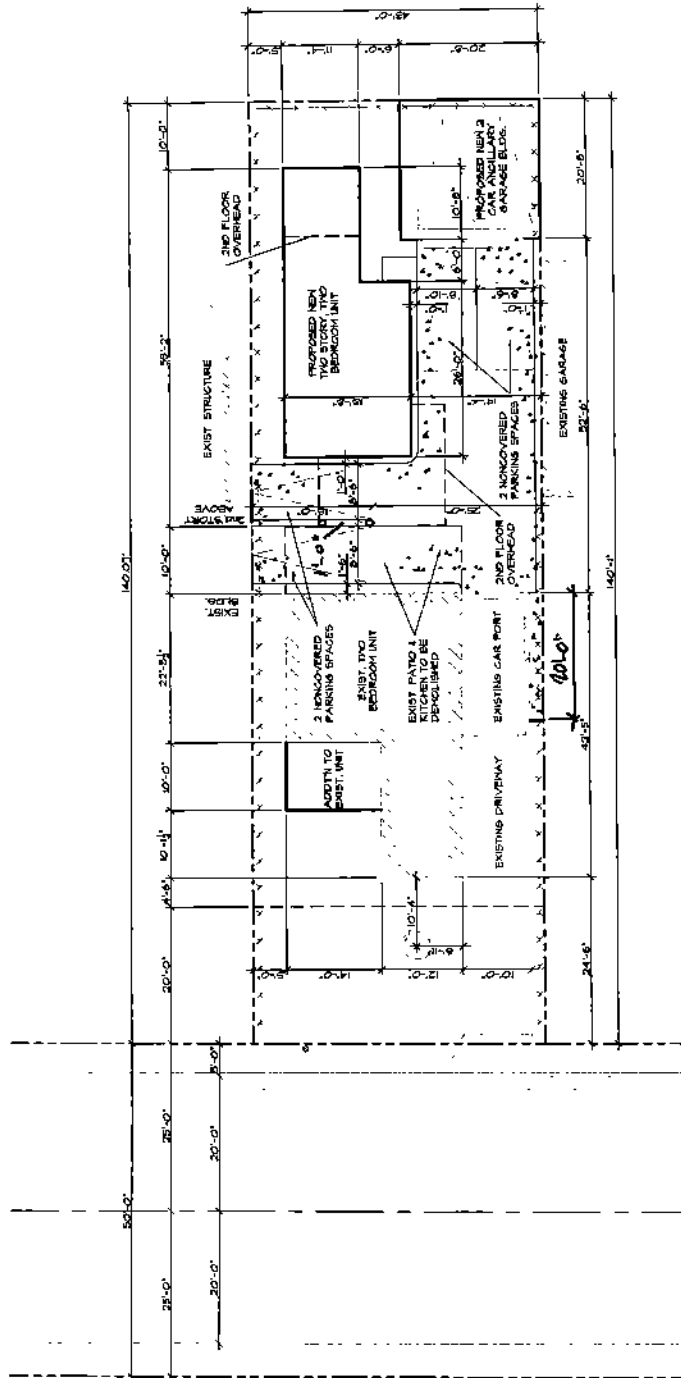
ARCHITECT:  
JONATHAN GULLIVER, AIA  
2345 NEWPORT BLVD, D-106  
COSTA MESA, CA 92627

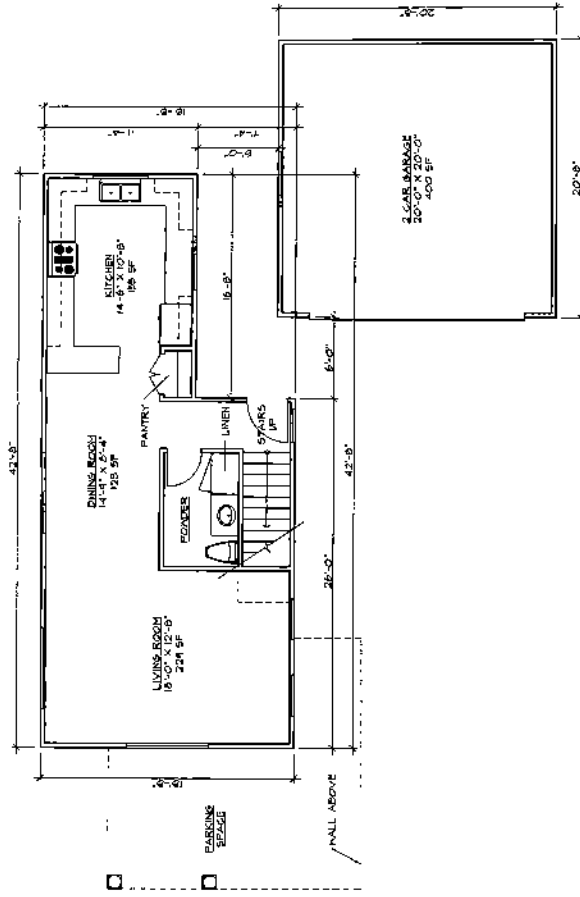
2ND UNIT ADDITION FOR:  
JOE RAFFONE  
161 MERILL PL  
COSTA MESA, CA 92627

SITE PLAN

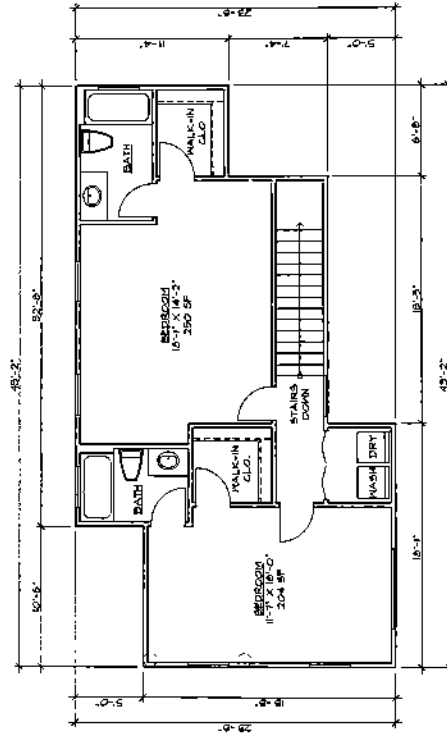
A-1

DATE: 10/1/00  
BY: JG  
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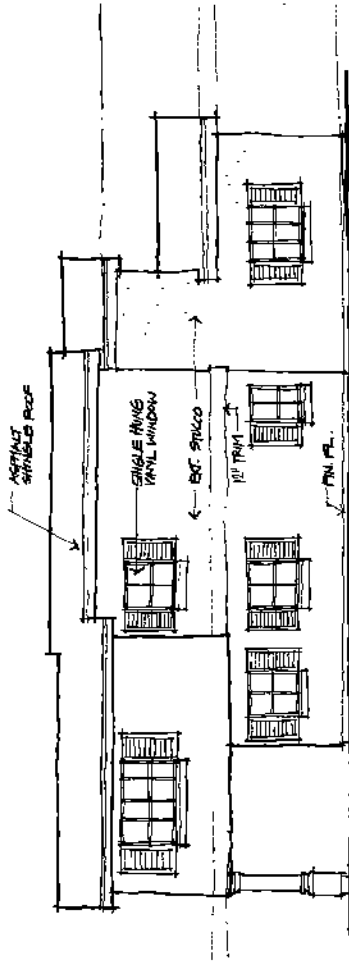




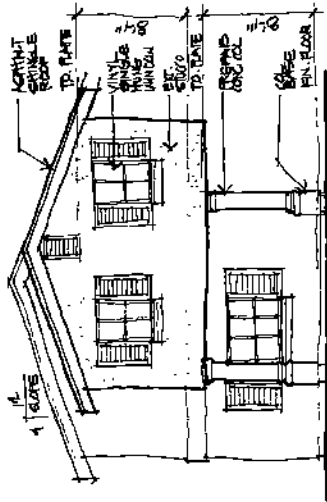
**FIRST FLOOR PLAN**



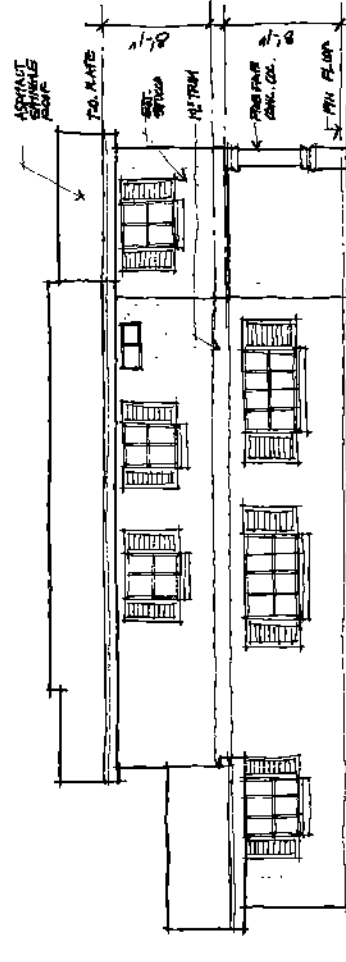
## SECOND FLOOR PLAN



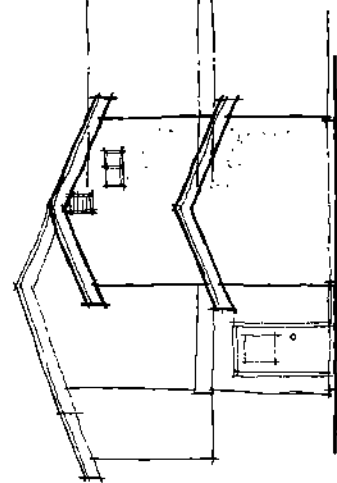
SIDE (WEST) ELEVATION



SIDE (NORTH) ELEVATION



REAR (EAST) ELEVATION



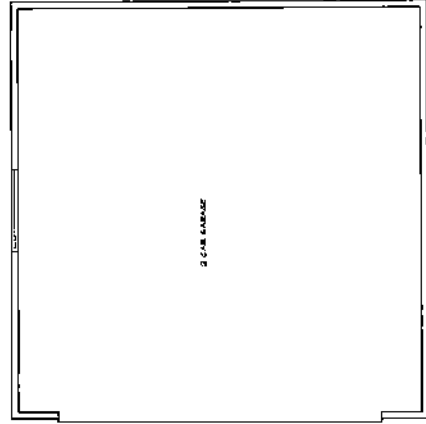
SIDE (SOUTH) ELEVATION

A-4

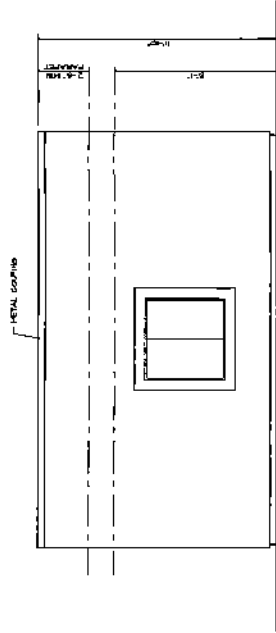
JOE RAFFONE  
161 MERILL PL.  
COSTA MESA, CA 92627

ARCHITECT:  
JONATHAN GULLIVER, AIA  
2345 NEWPORT BLVD, D-106  
COSTA MESA, CA 92627

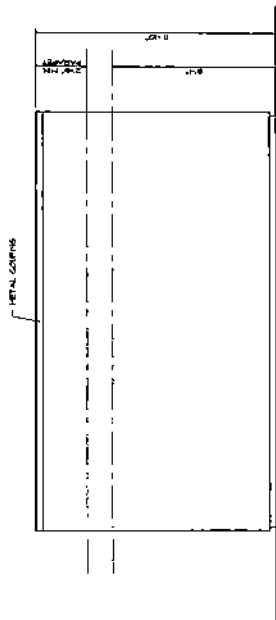
GARAGE ELEVATION



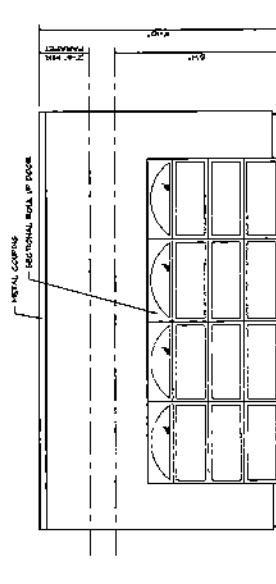
GARAGE ELEVATION



SOUTH ELEVATION



EAST ELEVATION



NORTH ELEVATION